

MAP or TEXT AMENDMENT APPLICATION

WESTPORT PLANNING AND ZONING COMMISSION

TEXT CHANGES APPLICATION

Complete #1- #3 Only & See Pg2 for Requirements:

- ☐ TEXT - AMENDMENT TO ZONING REGULATIONS
☐ TEXT - AMENDMENT TO TOWN PLAN CONSERVATION AND OF DEVELOPMENT

1. Applicant's Name: _____ Daytime Tel: _____
Applicant's Address: _____ E-mail: _____
2. Text Section Added or Modified: _____
3. Estimated time needed for presentation: _____

ZONING MAP CHANGES APPLICATION Complete # 1- #14, See Pg2&3 for Requirements:

- ☒ MAP - AMENDMENT TO ZONING REGULATIONS
☐ MAP - AMENDMENT TO PLAN OF CONSERVATION AND OF DEVELOPMENT

3. Property Address: see attached list, 347 properties
4. Property ID# (9 Digits - staff will provide) see attached list
5. Existing Zoning District/Plan Designation: A, AA and B (portions of these zones)
6. Proposed Zoning District/ Plan Designation: Beach Residential Zones
7. Lot Area: Various
8. Property Owner: Various - see attached list Daytime Tel: 203-341-1078 (M. Young)
Owner's Address: Various - see att. list E-mail: _____
9. Agent's Name (if different): _____ Daytime Tel: _____
Agent's Address: _____ E-mail: _____
10. Zoning Board of Appeals Case # (if any): none
11. A previous zone change/land use designation has ☐ has not ☒ been requested for this property
If change was previously requested, indicate date (s) _____
12. A List or A Map showing each ZBA Variance Case Number for all lots within 250' of subject property.
13. This property is ☐ is not ☒ within 500' of an adjoining municipality.
14. Estimated time needed for presentation: 10 min.

I hereby certify that the above information herewith is correct and all of the pertinent documentation required by the Zoning Regulations.

Katherine Danielle
Applicant's Signature (If different than owner)

Owner's Signature (Must be signed)

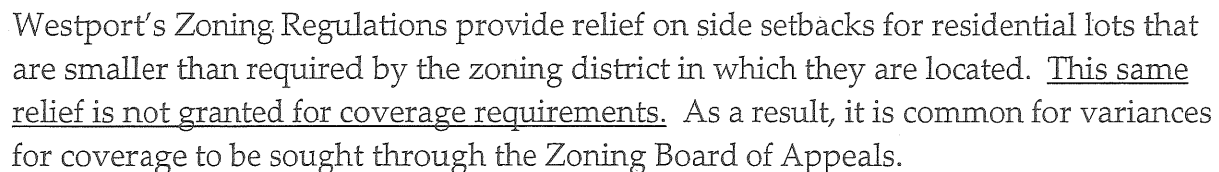
1. If the applicant is unable to obtain the signature of the property owner, a letter of authorization signed by the property owner may be submitted instead, as per §43-3.3

OFFICE USE ONLY # 19-010
Application # 769
Submission Date: 2-11-19
Receipt Date: 2-14-19
Amount Fee Paid: - 0 -

RECEIVED
FEB 11 2019
WESTPORT P. & Z. C.

To: Planning and Zoning Commission
CC: Mary Young, Planning and Zoning Director
From: Katherine Daniel, AICP, CFM and Deputy P&Z Director
Date: January 10, 2019
Re: Discussion of options for draft text amendment to the Zoning Regulations resulting from meetings of the PZC/ZBA Beach Rezoning Subcommittee

The 2017 Plan of Conservation and Development (the Plan) states on page 84 that about half of all properties in Westport are non-conforming as to lot size. The document provides this representation of the location of these lots throughout Westport.



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23, 2018 to gather public input and analyze the existing conditions of properties in the beach areas of Westport. These meetings were also attended by eight or ten members of the public on a regular basis.

The subcommittee did not formally define its purpose and discussed two methods to address these issues. Staff drafted alternative purpose statements for consideration by the subcommittee on June 1, 2017 and believed that consensus had been reached to utilize a town-wide approach by modifying Section 6-3 to grant relief to non-conforming lots as to coverage requirements as had been done for relief to side setback requirements. During the course of the meetings that followed, members of the subcommittee expressed an interest in restricting the benefits of this relief only to those properties in the beach areas of town. To address this concern the proposed amendment to Section 6-3 was restricted to properties south of the railroad. In the November 15, 2018 meeting of the Planning and Zoning Commission during which a draft text amendment to Section 6-3 was presented to the Planning and Zoning Commission, Town Attorney Peter Gelderman was asked to opine on the proposal and he indicated that such a restriction violated the uniformity provision of zoning regulation. For this reason, staff removed that restrictive language and drafted a more targeted text amendment to create a new zone for beach area properties only. The attached draft resolutions reflect these two separate approaches.

How much relief?

Staff collected and analyzed data on building and total coverage for the subcommittee to use in analyzing the levels of coverage granted by the ZBA and levels of coverage found on the ground today in the Compo Beach area. This data was comprised of data from variances for coverage granted in the last ten years. Additional data was compiled from as-built surveys available in the Planning and Zoning Department files to determine what level of building coverage and total coverage is present on the ground currently. The data was used to develop the proposal for relaxed coverage requirements. The subcommittee heard and considered ideas and concerns from members of the public as they evaluated the approach to take to provide relief on coverage for non-conforming lots.

One principle the subcommittee agreed upon was that lots containing one-quarter acre (10,890 square feet) of lot area are usually large enough to be developed without relief on coverage requirements. The proposed regulation addresses lots that are smaller than 10,890 square feet.

The subcommittee considered a number of different methods for developing a formula to establish appropriate relief for building coverage and total coverage. One such method was to allow a base lot coverage for all lots, irrespective of their size.

This method was not selected as a guiding principle because the subcommittee agreed on a second guiding principle, specifically the smaller the lot is, the lower the allowable coverage should be.

The formula developed to calculate allowable coverage relief for lots smaller than one-quarter acre gradually reduced the coverage allowed as the lot area approached one-quarter acre (10,890 square feet). The formula uses lot areas of up to 4,000 square feet as a base lot area to be accorded 30% building coverage and 40% total coverage. The formula adds 7% of additional lot area from 4,001 square feet to 10,889 square feet to the building coverage relief granted and 17% of the additional lot area to the total coverage. In this way, coverage relief on a percentage basis declines as lot area increases. When lot area reaches 10,890 square feet, no relief to coverage requirements is provided.

This formula is common to both approaches presented to the Planning and Zoning Commission herein.

Alternative Approaches

The first approach involves modifications to Section 6-3 Non-Conforming Lots to address the limitations on coverage for all lots that contain less than one-quarter acre (up to 10,890 square feet of gross lot area) located in Residence A and Residence AA zones across the entire town. Residence B zones were not included because the required lot size is only 6,000 square feet and total coverage is allowable up to 35% of the lot area. It was difficult to provide uniform relief to lots in the Residence B zone as for lots in the Residence A and AA zones. The initial proposal presented to the Planning and Zoning Commission for discussion on November 15, 2018 restricted this relief to those properties south of the railroad as a way to limit the benefits of this relief to the beach areas of Westport. Based on Town Attorney Gelderman's advice to make the proposed text amendment apply uniformly to all lots of that size, the limitation to those south of the railroad was removed.

The second approach was to develop a new zoning district for parts of town near the beach. This proposal is to create a new zoning district with the same allowances for coverage as proposed in changes described above, but applicable only to areas of Westport that may be rezoned. This approach will require the adoption of a text amendment to create the zoning district and a separate map amendment to locate the new zone.

A principle concern of the subcommittee to the creation of a new zone was that subdivision of lots should be avoided in order to maintain the existing density. An approach put forward by a participant in the subcommittee meetings was to craft lot shape and area restrictions that would render existing lots conforming and by stating in the regulation for the new zone that subdivision would not be permissible. This was

proposed due to a perception by the individual that if a property owner could claim that his or her lot was non-conforming, this claim might hold sway in a variance application as a legal hardship upon which a variance for building or total coverage could be based.

This proposal does not take that approach. Rather the minimum lot size was selected so that the largest lot in the Compo Beach area was less than twice the proposed minimum lot area. The lot sizes in the Compo Basin range from 0.1 acres to 1.09 acres. For this reason one half acre (21,780 square feet) was selected as the minimum lot area. This is the same minimum lot size as is required now in the Residence A zone.

Considerations

The constraints faced by property owners in Residence A and AA zones whose lots are non-conforming in size and less than one-quarter acre are the same across the town. The intensity of this non-conformity is felt more acutely in areas near the beach (Compo Beach, Compo Hill, Compo Mill Cove and Saugatuck Shores) due to the additional requirements for construction to FEMA standards. From a planning perspective granting relief to owners of such lots in a uniform manner is desirable. A single text amendment will effectuate this relief.

The concern expressed by members of the subcommittee that “small bites” should be taken to ensure that the approach is well received suggests that the two-step approach might be warranted. The establishment of a Beach Residential zone as described in the 2017 Plan of Conservation and Development limits the benefits of relaxed coverage standards in areas that are rezoned. Both a text amendment and a map amendment (or multiple map amendments) is required to effectuate this relief.

The 2017 Plan provides support for both approaches. On page 84 the Plan states the following:

“One of the impacts of this is that some of the zoning standards for these lots such as setbacks or building coverage may not be appropriate and property owners may need variances from the Zoning Board of Appeals for things they might like to do. Even very simple things can require a property survey and an attorney and end up costing homeowners thousands of dollars before they know if they can proceed.

While this issue may be most significant in the shoreline areas, the adjacent map (provided on page 1 of this memo) indicates it is an issue throughout Westport.

To address these issues, Westport should revisit the residential zoning standards and consider:

- revisiting town-wide standards for setbacks, coverage, height, and other standards which are based on the size of the lot rather than the zone, or*
- establishing a “Beach Residential” district with dimensional standards based on the prevailing lot sizes in the Saugatuck Shores and Compo Beach areas.*

In either case, Westport may also want to adopt a density regulation which would prevent additional subdivision of lots in these areas beyond what is presently allowed.”

Memorandum

To: Planning and Zoning Commission
From: Katherine Daniel, AICP, CFM and Deputy P&Z Director
Date: January 12, 2019
Re: Explanatory Statement for Map Amendment #769, Rezoning 347 properties from Residence AA, Residence A and Residence B to New Beach Residential Zone, §13B

Background

The Beach Rezoning Subcommittee was formed in late 2016 and held public subcommittee meetings between January 12, 2016 until May 23, 2018 to gather public input and analyze the common pattern of property owners applying for variances from the Zoning Board of Appeals to claim a hardship that would support relief to existing coverage limitations. The fact that such variances are commonly applied for and as commonly granted resulted in the formation of a subcommittee of members of the Zoning Board of Appeals and the Planning and Zoning Commission to examine whether to modify the zoning regulations in response to this pattern.

The 2017 Plan of Conservation and Development (the Plan) states in Section 10.3 that about half of all properties in Westport are non-conforming as to lot size. The Plan suggests on page 84 that *"Westport should revisit the residential zoning standards and consider:*

- *revisiting town-wide standards for setbacks, coverage, height and other standards which are based on the size of the lot rather than the zone, or*
- *establish a "Beach Residential" district with dimensional standards based on the prevailing lot sizes in the Saugatuck Shores and Compo Beach areas."*

The subcommittee explored both of these approaches to solving this issue. The first involved modifications to Section 6-3 Non-Conforming Lots to address the limitations on coverage for lots less than one-quarter acre (up to 10,779 square feet of gross lot area) located in Residence A and Residence AA zones across the entire town. The second approach was to develop a new zoning district for parts of town near the beach. During a work session on January 17, 2019 the Planning and Zoning Commission considered both approaches and selected the second approach to proceed on a selective basis. The

Commission felt this was a prudent first step and future steps could be to expanded implementation of the Beach Residential Zone in the future as well as potentially revising the first, more wide reaching approach.

In Residence A zones, the building lot coverage permitted is 15% of the base lot area and the total lot coverage permissible in this zone is 25% of the base lot area. Residence B zones allow 15% building lot coverage and 35% total lot coverage. Residence AA zones allow 25% total coverage. The base Lot Area as defined in the Westport Zoning Regulations is calculated by deducting 80% of any steep slopes or wetlands from the gross lot area. Most lots in this area do not contain wetlands or steep slopes, but most lots are very small. Commonly lots are 5,000 square feet of area in the area surrounding Compo Beach in a zone that requires 21,780 square feet. In the Residence B zone, that contains Compo Mill Cove and Old Mill Rd, lots are much smaller in a zone requiring only 6,000 square feet of lot area.

More extensive detail on the background to the development of the Beach Residential Zone regulations is available in the Explanatory Statement for Text Amendment #767.

Beach Residential Zone standards

The proposed text amendment uses the model found throughout the Westport Zoning Regulations residential zones by using Section 11 Residence AAA as the basis and changing lot area for zones allowing smaller lot sizes. The formula adopted to calculate coverage requirements for building and/or total coverage gradually reduces the coverage allowed as the lot area approached one-quarter acre (10,780 square feet). The formula uses lot areas of up to 4,000 square feet as a maximum lot area to be accorded 30% building coverage and/or 40% total coverage. The formula adds 7% of additional lot area from 4,001 square feet to 10,779 square feet to the building coverage allowable and 17% of the additional lot area to the total coverage allowable. In this way, allowable coverage declines as lot area increases. When lot area reaches 10,780 square feet, coverage requirements are 15% building coverage and 25% total coverage.

Implementation of the new zone requires that the text amendment must be in effect before rezoning can be adopted.

Map Amendment proposal– Two Beach Residential Zones

The proposed map amendment locates the Beach Residential Zone in two different locations. Both locations were among those highlighted as areas of concern at the initial meeting of the Beach Rezoning Subcommittee. The first area encompasses the properties encircled by Soundview Drive, Compo Beach Road and Compo Road South.

The second area includes all the properties on Compo Mill Cove, Old Mill Road, Compo Hill Road, Sherwood Drive, Sterling Drive, Buena Visa Drive and portions of Hillspoint Road (190 to 246 Hillspoint) and portions of Burnham Hill Road (odd numbers 1-17 Burnham Hill Road).

The Planning and Zoning Commission may consider each of these proposed locations independently.

Impact of Proposed Map Amendment

The standards of the Beach Residential Zone, Text Amendment #767 set the minimum lot size so that most lots would be less than twice the minimum lot area. The lot sizes of private property in the areas proposed to be rezoned range from 0.1 acres to 1.09 acres. There is a single privately owned lot that is more than twice the proposed minimum lot area and therefore, potentially subdividable. There is a second large lot that measures 1.25 acres in size, but is owned by the town and is used as a parking lot. For this reason half an acre (21,780 square feet) was selected as the minimum lot area.

On the other hand, prior to application of the Beach Residential Zone, there are several properties currently in the Residence B Zone, which could propose a first cut or a subdivision prior to the upzoning that would occur for properties currently zoned Residence B. Residence B Zoned properties require only 6,000 square feet of lot area among other standards.

One principle the subcommittee agreed upon was that lots containing one-quarter acre (10,780 square feet) of lot area are usually large enough for appropriately scaled development without relief on coverage requirements. The proposed regulation addresses lots that are smaller than 10,780 square feet, one-quarter acre of Lot Area. Of the total 347 properties to be rezoned, six belong to the Town of Westport. Of the remaining 341 privately owned properties, 258 are less than 0.25 acres. This represents 74% of the privately owned properties that may benefit from this map amendment.

The proposed map amendment would establish the standards of the Beach Residential Zone in two areas of Westport as represented by the map entitled Proposed New Beach Residential Zones prepared by K. Daniel 2-7-19.